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REPORT
99-290

EDUCATION OF THE DEAF ACT OF 1985

APRIL 29 (legislative day, APRIL 28), 1986.—Ordered to be printed

Mr. HATCH, from the Committee on Labor and Human Resources, submitted the following

REPORT

[To accompany S. 1874]

The Committee on Labor and Human Resources, to which was referred the bill (S. 1874) having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

I. BACKGROUND OF S. 1874

On June 11, 1985 the Subcommittee on the Handicapped held a hearing for the purpose of oversight of Gallaudet College and the National Technical Institute for the Deaf [NTID]. Witnesses at the hearing included the President of Gallaudet College, the Director of the National Technical Institute for the Deaf, the Vice President of the Rochester Institute of Technology, the Associate Director of the Human Resources Division of the General Accounting Office, the Director of the National Center on Deafness, the Assistant Secretary of the Office of Special Education and Rehabilitative Services, and two professors of special education. In response to the hearing and a General Accounting Office study requested by the Subcommittee on the costs and operations of Gallaudet College, the Model Secondary School for the Deaf, Kendall Demonstration Elementary School, and the National Technical Institute for the Deaf, S. 1874, entitled the "Education of the Deaf Act of 1985" was introduced on November 21, 1985.

On February 25, 1986, the Subcommittee on the Handicapped reported S. 1874 without amendment. On March 19, 1986 the Full Committee unanimously moved to order the bill, as amended, reported to the Senate.

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II. Section-by-Section Summary

The provisions summarized below are from the Education of the Deaf Act of 1985. This is new legislation and does not amend any existing statute.

S. 1874 consists of four titles: Title I—Gallaudet University; Title II—National Technical Institute for the Deaf; Title III—Commission on Education of the Deaf; and Title IV—General Provisions.

TITLE I—GALLAUDET UNIVERSITY

Part A—Gallaudet University General Authority

Section 101. Gallaudet University Continued

Subsection (a) changes the name of Gallaudet College to Gallaudet University.

Subsection (b) defines the purpose of Gallaudet University as providing education and training to deaf individuals and otherwise to further the education of the deaf.

Section 102. Property Rights Described

Subsection (a) describes Gallaudet University's property rights and entitles the University to have and use all authority, privileges, possessions and legal rights which it has or which it had or exercised under any former name. It also subjects Gallaudet to any liabilities and obligations outstanding against it under its former name.

Subsection (b)(1) provides that with the approval of the Secretary of Education, the Board of Trustees of Gallaudet University may convey fee simple title by deed, convey by quitclaim deed, mortgage, or otherwise dispose of any or all real property title to which is vested in the United States, as trustee, for the sole use of Gallaudet University or any predecessor corporation.

Subsection (b)(2) provides that any proceeds from the disposition of real property may be used solely for the acquisition of real estate for the use of the corporation for construction, equipment or improvement of buildings or for investment. If invested, only the income from the investment may be used for current expenses of the corporation.

Section 103. Board of Direct Trustees

This section describes the composition of the Board of Directors of Gallaudet University and stipulates the powers of the Board.

Part B—Kendall Demonstration Elementary School

Section 111. Authority of Gallaudet University

Subsection (a) grants general authority to the Board of Trustees of Gallaudet University to maintain and operate Kendall Demonstration Elementary School as a national demonstration elementary school for the deaf, while serving primarily residents of the National Capital region.

Subsection (b) mandates that the provisions of Part B of the Education of the Handicapped Act apply to the educational programs of the Kendall Demonstration Elementary School.

Part C—Model Secondary School for the Deaf

Section 121. Authority of Gallaudet University

Subsection (a) grants general authority to the Board of Trustees of Gallaudet University to maintain and operate a national model secondary school for the deaf, while serving primarily residents of the District of Columbia and of nearby states.

Subsection (b) mandates that the provisions of Part B of the Education of the Handicapped Act apply to the educational programs of the Model Secondary School for the Deaf.

Section 122. Agreement with Gallaudet University for the Model Secondary School

Subsection (a) authorizes the Secretary to continue an agreement with Gallaudet University for the establishment and operation of a model secondary school for the deaf to serve residents of the District of Columbia and of nearby states.

Subsection (b) describes the provisions of the agreement.

Subsection (c) requires the Secretary to submit an annual report to Congress with such comments and recommendations as the Secretary deems appropriate.

TITLE II—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

Section 201. Authority

This section grants authority for an institute of higher education with which the Secretary has an agreement under this title, to operate and maintain a National Technical Institute for Deaf, for the purpose of providing a residential facility for postsecondary technical training and education for deaf individuals in order to prepare them for successful employment.

Section 202. Agreement for the Institute

Subsection (a) grants authority for continued agreement between the Secretary and an institution of higher education for the establishment and operation of a National Technical Institute for the Deaf. The Secretary is directed to give preference to applications from institutions located in metropolitan industrial areas.

Subsection (b)(1) provides that, under the provisions of the agreement, federal funds appropriated for the benefit of the Institute will be used only for that purpose in accordance with the applicable provisions of this Act.

Subsection (b)(2) provides that, under the provisions of this agreement, the Board of Trustees or other governing body of the institution, subject to the approval of the Secretary, appoint an advisory group to advise the Director of the Institute in formulating and carrying out policies governing its establishment and operations. The advisory group is to include professionals in the field of postsecondary education and training professionals in the field of education and training of the deaf, and public members familiar with the need for services provided by the Institute.

Subsection (3) provides, under the provisions of the agreement, that the Board of Trustees or other governing body of the institution make an annual report with an accounting of all indirect costs

paid to the institution of higher education under agreement to the Secretary, who shall then transmit the report to the Congress with comments and recommendations as deemed appropriate.

Subsection (4) provides that, under the provisions of the agreement, the Secretary shall include other conditions necessary to carry out the purpose of this part.

Subsection (5) provides that any laborer or mechanic employed by any contractor or subcontractor in the performance of work aided by federal funds appropriated for the benefit of the Institute be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor under the Davis-Bacon Act, as amended.

Subsection (c) provides that, within twenty years after the completion of any construction for which funds have been paid and the facility ceases to be used or the institution ceases to be held owner of the facility, the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility the same ratio as the amount of such federal funds bore to the cost of the facility financed with the aid of such funds. The value shall be determined by agreement of the parties or by action brought in the United States district court.

TITLE III—COMMISSION ON EDUCATION OF THE DEAF

Section 301. Establishment

Subsection (a) establishes a Commission on Education of the Deaf to make a study of the quality of education programs furnished to deaf individuals at all educational levels.

Subsection (b)(1) establishes that the Commission be composed of 12 members, and sets forth the appointment process of the members.

Subsection (b)(2) stipulates the qualifications of the Commission members, and sets forth the appointment of the Chairman of the Commission.

Subsection (3) stipulates that members of the Commission may not be employed by or be a consultant to NTID or Gallaudet University on the date members of the Commission are appointed or for a period of one year prior to such date.

Subsection (4) requires that, of the members appointed by the Speaker of the House and the President Pro Tempore of the Senate, at least one must be deaf and not more than two may be from the same political party.

Subsection (5) requires that any vacancy in the Commission shall be filled in the same manner as the original appointment.

Subsection (6) requires that members of the Commission shall be appointed not later than thirty days after the enactment of this Act.

Section 302. Duties of the Commission

Subsection (a) describes the issues to be addressed by the Commission in its study and report on the status of deaf education and mandates that the report contain the findings and recommendations of the Commission.

Subsection (b) requires the Commission to provide such interim reports to the President and the Congress as it deems advisable, and to submit its final report not later than eighteen months after enactment of this Act. The report is to contain such recommendations, including legislative proposals, as the Commission deems advisable.

Subsection (c) provides that the Commission will cease to exist ninety days following submission of its final report.

Section 303. Administrative Provisions

Subsection (a) provides for the appointment of personnel for the Commission, and permits the use of experts and consultants.

Subsection (b) provides authority for the Commission to hold hearings and meetings, and establishes a quorum at six members.

Subsection (c) requires the Commission in carrying out its duties to consult with, Gallaudet University, the National Technical Institute for the Deaf, and other programs and agencies serving or representing the interests of deaf people to the extent feasible.

Subsection (d) authorizes the Commission to obtain information, suggestions, estimates and statistics, and the entity requested to release such data. The Commission is also authorized to enter into contracts for the purpose of securing data.

Subsection (e) directs the heads of all federal agencies to cooperate with the Commission in carrying out this title, to the extent not prohibited by law. This subsection also authorizes the Commission to utilize, with their consent, the services, personnel, information, and facilities of governmental and private agencies with or without reimbursement.

Subsection (f) allows the Commission to accept gifts in the name of the United States in furtherance of the functions of the Commission.

Section 304. Compensation of Members

Subsection (a) prohibits compensation to be paid to members of the Commission who are officers or full time employees of the United States, in addition to what they are currently receiving. Such members, however, will be allowed reimbursement for travel expenses, including per diem.

Subsection (b) allows compensation of public Commission members at the daily pay rate equivalent to a GS–18 for each day such members are engaged in Commission duties, and allows reimbursement for travel expenses, including per diem.

TITLE IV—GENERAL PROVISIONS

Section 401. Definitions

This section defines the major terms used in this Act.

Section 402. Gifts

This section authorizes Gallaudet University and the National Technical Institute for the Deaf to receive gifts.

Section 403. Audit

This section establishes audit authority of the General Accounting Office over all financial transactions and accounts appropriated by any law of the United States for the benefit of Gallaudet University and the National Technical Institute for the Deaf. This section further mandates an independent audit of the programs and activities of the University and of the Institute.

Section 404. Reports

This section requires that an annual report be submitted to the Secretary from the Board of Directors of Gallaudet University and the Board of Trustees of the National Technical Institute for the Deaf on the condition and activities of the University and the Institute. The Secretary shall include a description of the monitoring and evaluation activities pursuant to section 405, including recommendations for legislation in the report required under section 426 of the Department of Education Organization Act, as the Secretary deems necessary.

Section 405. Monitoring and Evaluation

This section requires the Secretary to monitor and evaluate the education programs and activities and the administrative operations of Gallaudet University and the National Technical Institute for the Deaf.

Section 406. Project Officer for Educational Programs for the Deaf

This section requires that the Secretary appoint a project officer in the Office of Special Education and Rehabilitative Services of the Department of Education no later than thirty days after the enactment of this act. The duties of the project officer are also described.

Section 407. Oversight and Effect of Agreements

This section provides for ongoing oversight activities of the Senate and House of Representatives over Gallaudet University and the institution of higher education with which the Secretary has an agreement under Title II.

Section 408. Authorization of Appropriations

Subsection (a) authorizes appropriations for Gallaudet University, as follows: $65,300,000 for fiscal year 1987; $69,000,000 for fiscal year 1988; $73,100,000 for fiscal year 1989; $77,400,000 for fiscal year 1990; and $82,000,000 for fiscal year 1991. These funds may be used to carry out provisions of this act relating to Gallaudet University; part B of title I of this act relating to Kendall Demonstration Elementary School; and part C of title I; relating to the Model Secondary School for the Deaf.

Subsection (b) authorizes appropriations for the National Institute for the Deaf, as follows: $33,700,000 for fiscal year 1987; $35,700,000 for fiscal year 1988; $37,800,000 for fiscal year 1989; $40,000,000 for fiscal year 1990; and $42,400,000 for fiscal year 1991. These funds may be used to carry out the provisions of title II of this act.

Subsection (c) authorizes the appropriation of such sums as may be necessary, but no more than $1,000,000, to carry out the provisions of title III of this act, relating to the Commission on Education of the Deaf. These funds are to remain available until expended, or until the termination of the Commission, whichever first occurs.

Section 409. Repeals

This section repeals previous acts maintaining and operating Gallaudet College, Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the National Technical Institute for the Deaf.

III. Committee Views

The Committee bill retains the overall purposes of Gallaudet University, Kendall Demonstration Elementary School, Model Secondary School for the Deaf and the National Technical Institute for the Deaf [NTID] as previously authorized to provide education and training of deaf individuals and otherwise to further the education of the deaf.

The Committee intends that the scope of Gallaudet's activities on behalf of hearing impaired persons includes, but is not limited to, instruction, public service, technical assistance and outreach to train parents of deaf infants, research, pre- and post-university services, and outreach to the deaf population nationally and internationally. The purpose of NTID is to provide a residential facility for postsecondary technical training and education for deaf individuals in order to prepare them for successful employment. Nothing in the bill should be construed to prohibit Gallaudet or NTID from serving foreign students, provided that no eligible deaf U.S. citizen is denied the provision of full services because of such admission.

The Committee further wishes to make clear that the project officer as it relates to NTID and Gallaudet University is in no way to be involved in the management, policymaking process, or governance of NTID or Gallaudet University. The project officer is to be a source, in the Department of Education, for providing information and coordination of the Department's efforts in the area of deafness as they relate to these facilities. The purpose of the project officer is to provide a communication linkage and support role to NTID and Gallaudet University. Review and comment on plans and materials relating to such activities as research and demonstration does not entail control in any way, nor constitute a determination that such activities be conducted by NTID or Gallaudet University. All initiatives in these and other areas are reserved to the administration and board of trustees of Gallaudet University and the advisory board of NTID.

The Committee is aware of significant changes over the past ten years in the philosophy and practice of the education of all handicapped students since the passage of Public Law 94-142, the Education for All Handicapped Children Act. This law requires that all handicapped children be provided a free, appropriate public education in the least restrictive environment. Moreover, determinations in this regard are made by a multidisciplinary team at the local

level for each individual handicapped child. By applying the provisions of Part B of the Education of the Handicapped Act to Kendall Elementary School and the Model Secondary School for the Deaf, the Committee intends to make it clear that the students enrolled in these programs have individualized education programs developed by the local education agency and that placement in these programs has been determined by the local team to be the least restrictive placement for each student.

Further, the Committee bill establishes a Commission on Education of the Deaf to study the status of deaf education throughout the United States.

The Committee intends that the report of this Commission provide the basis for improvements in education for the deaf in a manner similar to that which resulted from the report of the 1965 National Advisory Committee on the Education of the Deaf.

IV. Budget Estimate

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1874.
2. Bill title: Education of the Deaf Act of 1985.
3. Bill status: As ordered reported by the Senate Committee on Labor and Human Resources on March 19, 1986.
4. Bill purpose: The purpose of this bill is to amend and extend the authorizations for educational programs for deaf individuals. This bill would consolidate the separate acts relating to Gallaudet College, Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the National Technical Institute for the Deaf. This bill is subject to subsequent appropriations action.
5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
Title I—Gallaudet University:					
Authorization level	65.3	69.0	73.1	77.4	82.0
Estimated outlays	61.4	68.8	72.9	77.1	81.7
Title II—National Technical Institute for the Deaf:					
Authorization level	33.7	35.7	37.8	40.0	42.4
Estimated outlays	33.7	35.7	37.8	40.0	42.4
Title III—Commission on Education of the Deaf:					
Authorization level	1.0				
Estimated outlays	0.5	0.5			
Total—Education of the Deaf Act:					
Authorization level	100.0	104.7	110.9	117.4	124.4
Estimated outlays	95.6	105.0	110.7	117.1	124.1

The costs of the bill fall within function 500.

Basis of estimate: This bill authorizes payments to institutions for the education of deaf individuals, and establishes a commission to study the quality of infant and childhood education programs for the deaf. The authorization levels are those specifically stated in the bill. Outlay estimates assume full appropriation of estimated

authorization levels. Outlays reflect the current spending pattern of these programs.

6. Estimated cost to State and local governments: the Congressional Budget Office has determined that the budgets for State and local governments would not be affected directly by the enactment of this bill.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Kenneth Pott.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

V. Tabulation of Votes Cast in Committee

The motion to favorably report the bill to the Senate was passed unanimously by the Committee on Labor and Human Resources on March 19, 1986.

VI. Regulatory Impact Statement

The Committee has determined that there will be minimal increases in the regulatory burden imposed by this bill.

VII. Changes in Existing Law

In compliance with rule XXVI paragraph 12 of the standing rules of the Senate, the following provides a print of the statutes to be repealed.

GALLAUDET COLLEGE

The Act entitled "To amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes", approved June 18, 1954 (other than section 9) is repealed.

KENDALL DEMONSTRATION ELEMENTARY SCHOOL

The Act entitled "To modify and enlarge the authority of Gallaudet College to maintain and operate the Kendall School as a demonstration elementary school for the deaf to serve primarily the National Capital region, and for other purposes", approved December 24, 1970, is repealed.

MODEL SECONDARY SCHOOL FOR THE DEAF

The Model Secondary School for the Deaf Act is repealed.

THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

The National Technical Institute for the Deaf Act is repealed.

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